

Administrative Issues



CALFED
BAY-DELTA
PROGRAM

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Memorandum

Date: February 18, 1998

To: CALFED Policy Group

From: Lester A. Snow
Executive Director

Subject: Oversight of Program Activities

At the CALFED Policy Group meeting on January 26, we discussed options regarding ongoing CALFED oversight of Program activities. Four options were presented for initial consideration which included: (1) letting the Program close out in May 1999; (2) continuing under current arrangements by extending the current contract with the possible inclusion of a new agreement, such as a joint powers authority; (3) adding new authorities to an existing agency; or (4) creating a new entity with Program oversight and implementation responsibilities. After discussion at the last Policy Group meeting, direction was given to address this issue with emphasis that this issue should not demand a large degree of discussion or debate at time when significant policy issues need attention relative to the selection of a preferred alternative.

With that direction in mind, CALFED Management Team discussed a two-part proposal which can address the short-term need for greater certainty following May 1999 and provides the opportunity for further discussions regarding institutions which will be needed to bring closure to the assurance discussions.

Post May 1999 Strategy for CALFED Oversight

Currently the Program's operations rest on a contract between the state and federal governments.¹ In order for Program activities to continue past May 1999, an amendment is needed to the contract which both extends the time period of the agreement and formalizes the funding commitment of the state and federal governments for that period. Staff is preparing estimates of Program operation costs, post EIR/S, for your consideration as part of these discussions.

¹Contract B-59953 signed May 17, 1995; total Program cost amended 1997.

CALFED Agencies

California
The Resources Agency
Department of Fish and Game
Department of Water Resources
California Environmental Protection Agency
State Water Resources Control Board

Federal
Environmental Protection Agency
Department of the Interior
Fish and Wildlife Service
Bureau of Reclamation
U.S. Army Corps of Engineers

Department of Agriculture
Natural Resources Conservation Service
Department of Commerce
National Marine Fisheries Service

At the same time, for the Program to operate effectively in its role of facilitator and administrative coordinator of all Program actions contemplated under the final approval alternative, certain functions should be streamlined. Personnel, finance and budget, and general operations of the Program are more complicated now because the Program has no authority of its own but rather must rely on the contract administrators (DWR and USBR) for many of these essential services. If the Program were operating under a Joint Powers Authority (JPA), for example, many of these issues would be resolved.

While the California statute authorizing a JPA may allow a federal agency to join, federal law does not allow a federal agency to join such an authority. Federal law requires specific legislation for any federal agency to acquire a corporation such as joining a JPA, to act on its behalf. While an obstacle to such an effort, I believe such legislation is achievable and in the long-term interest of CALFED. A overview of these issues is included as Attachment A.

Recommendation of Management Team

The Management Team recommended a two-part effort relative to the Program's institutional issues: (1) direct staff to draft an amendment to the existing state/federal contract which would extend the time frame and funding commitment of the state and federal governments through December 31, 2000; and (2) direct staff to define the actions needed to allow the CALFED agencies to enter into a more formal agreement, such as a JPA, in order to carry out the long-term objectives of the CALFED agencies and facilitate implementation of the actions in the preferred alternative, but do this in conjunction within the larger discussions underway regarding the need for an oversight entity for the ecosystem restoration efforts and other discussions concerning long-term assurances.

The general sentiment was that under most probable scenarios, some federal legislation will eventually be needed to implement parts of the Program. The recommendation is to plan to go only once for federal legislation and to carefully craft a package which will satisfy all Program needs as opposed to pursuing an organizational fix through legislation independently.

Policy Group Action Item

We recommend the Policy Group concur with the direction of Management Team. Direct staff to prepare a contract extension for consideration at the April Management Team and Policy Group meetings. Direct staff and consultants to consider the Bay-Delta Program institutional issues along with the broader assurance issues.

Attachment